

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

ALESSANDRO PIROZZI; PIROZZI
ENTERPRISES, LLC, dba SALERNO; CHEF
ALESSANDRO PIROZZI, INC., dba ALESSA,

Plaintiff,

v.

FISERV CORPORATION; CARDCONNECT;
and DOES 1 through 25,

Defendants.

Case No. 2:22-cv-00902-DG-AYS

DEFENDANTS FISERV, INC.’S AND
CARDCONNECT, LLC’S MOTION FOR
CLARIFICATION REGARDING
PENDING MOTION TO DISMISS

Fiserv, Inc. (“Fiserv”) and CardConnect, LLC (“CardConnect”) (collectively “Defendants”) hereby file this Motion for Clarification, requesting the Court’s direction on their pending Motion to Dismiss.

1. On January 5, 2022, Defendants filed in the Central District of California their Motion to Dismiss or, in the alternative, to Transfer (“Motion”). (ECF No. 9.)

2. On February 16, 2022, the Central District of California granted Defendants’ Motion to Transfer. (Order Granting Defendants’ Motion to Transfer Action to the Eastern District of New York, ECF No. 14.)

3. While the Court made rulings relevant to Defendants’ Motion to Dismiss,¹ it only ruled on the Motion to Transfer. (*Id.* at 10 (“[T]he motion to transfer is **GRANTED**.” (emphasis in original); *id.* at n.3 (“The Court need not address Defendants’ motion to dismiss as it finds this case should have been filed in the Eastern District of New York pursuant to the Agreement.”).)

4. Accordingly, Defendants’ Motion to Dismiss is still pending.

¹ *Id.* at 7 (ruling that Plaintiff’s “tort claims relate to the Agreement,” “many are directly grounded in the Agreement,” and “Plaintiffs’ claims for conversion, negligence, and violation of California Penal Code section 496 appear to be duplicative of the breach of contract claim.”).

5. Defendants therefore seek clarification as to whether the Court would prefer Defendants refile the pending Motion to Dismiss and conform it to the current case caption and local rules and to remove arguments concerning the motion to transfer.

Dated this 1st day of March, 2022.

Respectfully submitted,

POLSINELLI PC

By: /s/ John Peterson

John W. Peterson (#5394200)
401 Commerce Street, Suite 900
Nashville, TN 37219
john.peterson@polsinelli.com
(615) 259-1510

*Attorneys for Defendants Fiserv, Inc. and
CardConnect, LLC*

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served via ECF on the following counsel
of record this 1st day of March, 2022:

Law Offices of Foroozandeh, APC
Majid Foroozandeh, Esq.
23461 So. Point Dr., Suite 385
Laguna Hills, CA 92653

/s/ John W. Peterson
John W. Peterson